

16-402 CARPENTER V. UNITED STATES

DECISION BELOW: 819 F.3d 880

LOWER COURT CASE NUMBER: 14-1572

QUESTION PRESENTED:

In this case, as in thousands of cases each year, the government sought and obtained the historical cell phone location data of a private individual pursuant to a disclosure order under the Stored Communications Act (SCA) rather than by securing a warrant. Under the SCA, a disclosure order does not require a finding of probable cause. Instead, the SCA authorizes the issuance of a disclosure order whenever the government "offers specific and articulable facts showing that there are reasonable grounds to believe" that the records sought "are relevant and material to an ongoing criminal investigation." 18 U.S.C. § 2703(d).

As a result, the district court never made a probable cause finding before ordering Petitioner's service provider to disclose months' worth of Petitioner's cell phone location records. A divided panel of the Sixth Circuit held that there is no reasonable expectation of privacy in these location records, relying in large part on four-decade-old decisions of this Court.

The Question Presented is:

Whether the warrantless seizure and search of historical cell phone records revealing the location and movements of a cell phone user over the course of 127 days is permitted by the Fourth Amendment.

CERT. GRANTED 6/5/2017